

VILLAGE OF BROOKLYN
DECEMBER 14, 2009

The Village Board meeting was called to order by President Nadine Walsten on December 14, 2009, at 6:39 p.m. in the lower level of the Brooklyn Community Building. Trustees present: Todd Klahn, Helen McCord, Tim Belter, and Wendy Layton. Mark Bruner arrived at 7:15 pm. Others present: Carol Strause, Clerk, Public Works Director, Bob Anderson, Lilly Irwin-Vitela, David Natzke, Tracy Schaefer, Paul Douglas, Atty. Mindy Rowland, Atty. Bob Kilkelly.

No public comments were presented. Trustee Klahn moved, second McCord to approve the minutes of Nov 9, 2009.

President Walsten spoke to two Village Presidents and a parliamentarian regarding changing the agenda and moving the seating of a prospective trustee from the end of meeting to the first part of agenda. Walsten asked if there was any objection to this change. There being none, Trustee Klahn moved, second Layton, unanimously carried to approve the **appointment of Lilly Irwin-Vitela as Board Trustee** to complete the term of Sue McCallum who resigned from the Board. This term expires in 2010. President Walsten gave the Oath of Office.

President Walsten reported on an Economic Development Course given by UW Extension which was extremely helpful in the identifying the procedures and processes of to make economic development and community development happen. Walsten will give a full report at Thursday night's Economic Development Committee meeting. Development is critical for the Board and more critical for the health, welfare, and growth of this community. Representative of the Oregon Youth Center will be at the January meeting with details on who attends and what programs are offered. Rep Gottlieb is looking for a co-sponsor to repeal the emergency service Maintenance of Effort bill that passed in the Budget Bill. The bill that was approved prohibits municipalities from reducing their spending on police and fire services below 2009 levels. Clerk will check on the status of this bill to repeal.

Clerk Strause gave a status report for the spring election. Trustee McCord has filed a Declaration of Non-Candidacy. To date, no nomination papers have been picked up from the Clerk's Office. Papers need to be filed by Jan 5, 2010. Local Government Property Insurance Fund will pay a dividend of \$2368 which will be given as a credit on our 2010 premium. It is unknown at this time what that premium will be as coverage for the new wastewater treatment plant will be included. Premium for General Liability and worker comp coverage through Baer Insurance Services will be down overall by \$265 for 2010 with a reduction in the modification factor for workers comp. The \$2500 deductible for public official's errors and omissions has been removed for 2010. Clerk's Office will be open for tax collection on two Saturdays from 8 a.m. to noon: Dec 19th and Jan 30th.

UNFINISHED BUSINESS: (Trustee Bruner present) Agreement for resurfacing and **jurisdictional transfer of County Hwy MM in the Village** was discussed. Public Works Committee recommended this agreement be approved. Dane County will be repaving MM to the intersection of Hwy 92. The Village will owe for the parking lanes costing less than \$20,000 of the total \$80,000 project. One half of the cost will be paid with CHIP funds. After the project is complete, jurisdiction in the Village limits would be transferred to the Village. Trustee Bruner stated a conference call between DOT, County Executive Office, Bruner, and Anderson discussed the alternatives. If the Village declines the jurisdictional transfer, the road will not be resurfaced. Bruner also stated there were mitigating circumstances in the Villages of Oregon and McFarland that these communities did not have to approve jurisdictional transfer; however, any future projects by Dane County will require this agreement. Dane County Cities and Villages Assoc. will be discussing these agreements on their next

agenda and doing a cost benefit analysis. Trustee Bruner moved, second McCord, carried to accept the jurisdictional transfer agreement from Dane County.

Discussion continued on the **2010 sewer rate increase**. If the rates are not increased, the Village would be in violation of their Clean Water Fund bond issue which mandates that enough revenue be collected to pay for debt service. Most residents understand the situation if the details are explained to them. If growth takes off in 2011, will the 2011 rates be in effect was asked. President Walsten stated the annual 3% growth rate calculated in the formula by bond counsel should not have been in the formula per her discussion with Village Administrators at an economic development class. Trustee Klahn moved, second McCord, carried to increase sewer rates as proposed for 2010 and 2011. Trustee Irwin-Vitela abstained. New rates are effective Jan 1, 2010.

Sewer connection fees, tabled from last month's meeting and recommended for approval by the Public Works Committee as presented by Strand Engineering, were further discussed. The percent increase over a two year average is 4.8% as there was no increase last year. Cost for one unit would go from \$3070 to \$3215. Developers look at communities, sort out connection fees and use a benchmark as to where they want to put together a housing development. Those costs in turn are passed on to buyers. Trustee Klahn moved, second Layton, carried to increase the sewer connection fees by 4.8% effective Jan 1, 2010. President Walsten voted Nay.

Business park update: Gary Becker, Vierbicher, completed a cost analysis for the business park based on land and infrastructure cost versus revenue projections. These projections of revenues and expenses are out of balance as it is difficult to generate enough revenue per acre to offset the land purchase price. Walsten will be meeting again with the land owner to discuss per acre cost and/or increasing the number of acres being purchased.

Update on Village **private business collaboration guidelines:** E.D. Committee felt it to be in the best interest to destroy the draft guideline and revisit the issue at a later date. There needs to be a strong partnership with the business community and need for guidelines may arise again.

CONSENT AGENDA: Trustee Klahn moved, second McCord, carried to approve all consent agenda items as follows: Payment of invoices removing invoice #3497 for Midwest Landscaping until clarification on amount due; approve appointment of Andrea Tofte, Dorothy Kremm, Tammy Thomas to the local election board; approve Resolution #2009-11 Tax Collection Responsibility of Treasurer (in lieu of bond).

COMMITTEE REPORTS: Public Works: Director Anderson stated the punch list for completing the wastewater treatment plant will soon be completed. The additional four year warranty for the rebuilt mixer problem was discussed. Strand recommended taking the offer. C.D. Smith will be closing out the project within the next thirty days, and the Village will then be required to provide insurance for the new plant. Trustee Klahn moved, second Bruner, carried to **accept the four year additional warranty on the rebuilt mixer**. Trustee Bruner moved, second Klahn to postpone discussion of EAB until next month in consideration of the lengthy agenda.

Planning and Zoning: Pres. Walsten reported the commission recommended hiring the low bidder General Engineering at a cost of \$1500-\$2000 to update the Village's comprehensive plan. Walsten moved, second Belter, carried to approve this recommendation. **Ordinance Committee:** No meeting. **Safety Committee:** Chief Barger handed out his monthly report. Vehicle pursuit policy was presented as recommended by committee for approval. Trustee McCord moved, second Klahn, carried to approve as written. Transfer of jurisdiction on pursuit was discussed. **Fire EMS** meeting will be Wed night. **Personnel** will also meet on Wed night. **Economic Development** committee will meet on

Thursday. **Recreation Committee** invites residents to meet at the gazebo and join them for Caroling on Thursday night (12-17) at 7 pm. Santa helper day and Santa Day were very well attended and successful. Movie nights are better attended also.

Ad-hoc Committee Reports: **Bluegrass:** New committee has met and is putting together the band schedule for June 11-12-13th, adding Sunday a.m. to the schedule. **July 4th:** no meeting. **Recycling-** will meet after January 1st. **Website** committee will also meet after Jan 1st.

Finance Committee: As the Clerk's Office laptop has had start up and software problems, Trustee Belter moved, second Trustee Irwin-Vitela, carried to **purchase a laptop** not to exceed \$600 using either funds that may be left over from 2009 or from next year's budget. Trustee Belter updated the process for extra collateral coverage at the Bank of Brooklyn. Coverage needed fluctuates from month to month as an ongoing cycle. Interest rates from other financial institutions were investigated. Trustee Klahn moved, second Belter, carried to request the **Bank of Brooklyn to provide a total of 1.3 million for collateral. Sewer depreciation** rate that was budgeted for 2010 is \$80,000; however, this amount will probably be significantly higher with the new wastewater treatment plant depreciation schedule.

At 7:50 pm, discussion of **Robert M. Anderson personnel issues** commenced. Anderson requested this discussion (originally set for closed session) be in open session. Village attorney, Mindy Rowland from Dewitt Ross, was present as Michael Christopher was out of town. Rowland stated because the request is to have this discussion in open session, the Board can if they wish deliberate in closed session. President Walsten stated packets regarding this issue are available as open records due to the open session. Those in attendance are Robert Anderson, Anderson's attorney, Bob Kilkelly, Paul Douglas, Dave Natzke, Traci Schaefer, Chief Barger, all Village Board members who introduced themselves, and Clerk Strause. Walsten stated there would be no comments from the floor as this is not a public hearing and we are not here to add to the rumor mill. Anderson and/or his attorney may give rebuttal statements at the end. Trustee Irwin-Vitela asked what the long term impact will be as this open session seems inappropriate to handle this way. Atty Rowland stated that this is not common to do in open session. Atty Kilkelly stated Anderson felt the allegations made are not true and he requested this matter to be out in the open. Walsten stated that Trustees need to be impartial representing the residents of this community.

President Walsten read her statement and memorandum from Attorney Christopher. President Walsten brought personnel issues to the Personnel Committee feeling the Board should address the issues because of concern for liability, protecting the Village's interest as well as the rights of the employee. Walsten consulted with Atty Christopher who requested Anderson's entire personnel file. Christopher offered his memo after reviewing the file. The issues have been building since summer and are categorized to three areas: performance, ethical activities, and unacceptable conduct. The Village discipline policy which was adopted in 2005 was referenced. The Community Building roof bidding process (Anderson recommended bid to company owned by his first cousin without notifying Public Works Committee or Board of relationship); unable to operate Waste Water Treatment Plant as missed trainings; computer skills training recommended since 2006; poor communication skills; utility testing violations, employee alcohol and drug testing program; insubordination; administrative and job attendance concerns were addressed and discussed at length.

Attorney Kilkelly referenced copies of Anderson's employee reviews for 2004-2005-2007-2009 that were included in the packet that stated "good" on the self reports, and the Personnel Committee's 3-15-2006 memo stating "excellent knowledge and experience in public works". Another review dated 6-20-07 states "Whatever Bob's computer deficiencies, he continues to perform his director responsibilities well and is an asset to the Village". Kilkelly continued, on the 7-15-09 evaluation,

there are no comments by committee that refute that his performance is good. The Personnel Committee met in closed session on 11-19-09 and took no action when reconvened in open session.

Trustee McCord, chair of Personnel committee, stated the allegations were made in closed session and no comments were made in open session because the committee wanted to investigate further. President Walsten contacted the Village attorney putting this packet together. McCord stated the issue "snowballed from 11-19 until today and is totally out of hand". McCord totally disagrees with verbiage which she felt was taken out of context. Trustee McCord and Bruner felt the committee should have had more time to deal with the issues. Trustee Bruner stated the allegations regarding the roofing bid at the Sept 3 meeting did not happen as Bruner asked Walsten to leave the meeting because "possible quorum notice" was not posted on the agenda. Bruner said Walsten was present before the meeting but left when the meeting was called to order at 6 pm. Walsten stated she was at the meeting and heard the roofing bid discussed, that Anderson asked her if bid needed to be brought to the Board first or could be approved as it was earmarked from 2007 BAN, and then left the meeting. Trustee McCord agreed that Walsten was not at the meeting.

Anderson addressed the Board. He stated the Village has just finished a \$4.3 million wastewater treatment plant with both Spilde and Anderson taking training for operating the plant. Anderson stated Spilde has a much better handle on the computer end of the operation but made prearrangements with Spilde that Golz and he would pick up training after plant start up. Majority of time, other things needed to be done when training occurred and not all PW employees could attend the training. Non-compliance violations for testing Village wells has been delegated to Spilde. Testing deadlines were an oversight and in one case a change of DNR rules caused confusion on radioactive sample requirements. A DNR hearing with Anderson and Clerk Strause was held and a letter submitted to the Board of the results. Anderson continued that he wants to be more computer literate and learn more and can navigate SCADA system. He was registered for a class on Aug 24th and took an excel class today. Vacation time was used to attend the National Rural Water Conference making an initial error submitted as sick time. Other sick time for a doctor's appointment on that same time sheet may need to be reviewed and corrected. Anderson stated he was trying to take a proactive stance on the EAB issue targeting smaller terrace trees. Unable to be reached during the day, he stated all employees know his cell number and they can call to contact him if radio contact fails.

Atty Kilkelly stated he would expect that this Board would not take any action against Anderson who is a 23 year employee. He stated the Board should follow the procedures as stated in the personnel manual and per Wis Stats 19.85(1)(b) if the purpose to convene to closed session is to have a hearing or a meeting, the Board is prohibited to go into closed.

Attorney Rowland assured the Board they have the right to convene to closed session as posted on the agenda. At 9:50 pm, Trustee Klahn moved, second Layton, with unanimous voice vote to convene to closed session pursuant to Wis Stats 19.85 (1)(b) to consider dismissal, demotion, or other discipline for Robert M. Anderson. Expected time to reconvene in twenty minutes. At 9:55 p.m., Trustee Layton left the closed session being ill. At 10:40 pm., Trustee Klahn moved, second Belter, with unanimous voice vote to reconvene to open session. Trustee McCord moved, second Bruner, carried to verbally reprimand Anderson for the roof bidding process with the Personnel Committee to create an action plan in January to help guide Anderson to be more professional with problem areas.

Trustee Bruner moved, second Klahn, carried to adjourn at 10:42 p.m.

Carol A. Strause
MMC, WCMC, CMTW

